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Date: October 29, 2009

Name: Ryan Gleitz, Reg. No. 82,164

Signature: 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: BRADY, ET AL.

Appl. No.: 10/726,851

Title: METHOD AND SYSTEM FOR PROVIDING
OPTION SPREAD INDICATIVE QUOTES

Filed: DECEMBER 2, 2003

Docket No.: 4672-369 (2002-002-CIP)

Conf. No.: 5641

Art Unit: 3691

Examiner: HAMILTON, LALITA M.

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

MAIL STOP PATENT EXT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Patent Application Information Retrieval (PAIR) system indicates that a patent term adjustment was calculated by the U.S.P.T.O. pursuant to 37 C.F.R. §1.701 of 1168 days. A copy of the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History is attached as Exhibit A.

Applicants' Attorney believes that the patent term adjustment should potentially be 1388 days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. §1.705(b). Please charge \$200.00 for the fee set for under 37 C.F.R. §1.18(e) and charge any additional fees required to **Deposit Account No. 23-1925 (04672-00369)**.

The present application is **not** subject to a terminal disclaimer.

I. PERIOD OF ADJUSTMENT PURSUANT TO 37 C.F.R. §1.703(a)(1)

The period of adjustment pursuant to 37 C.F.R. §1.703(a)(1) is the number of days in the period beginning on the day ("the 14 month date") after the date that is fourteen months after the date on which the application was filed pursuant to 35

fourteen months after the date on which the application was filed pursuant to 35 U.S.C. §111(a), or fulfilled the requirements pursuant to 35 U.S.C. §371, and ending on the date of mailing or either an action pursuant to 35 U.S.C. §132 or a notice of allowance pursuant to 35 U.S.C. §151, whichever comes first.

The PTO calculation of the period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) indicates, as shown by the PAIR PTA adjustment history, an adjustment of **1168** days (14 months after the filing of the application on **December 2, 2003** to the mailing of the first Office Action on **April 15, 2008**).

II. ADJUSTMENT PURSUANT TO 37 C.F.R. §1.703(b)

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a) or fulfilled the requirements pursuant to 35 U.S.C. § 371 and ending on the day the patent issues, but not including the days in a period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

The present application was filed on December 12, 2003. The 3 year date specified in 37 C.F.R. § 1.703(b) is December 12, 2006. A Request for Continued Examination (RCE) was filed on November 21, 2008. The time period from the 3 year date to the date an RCE was filed is **710 days**.

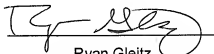
III. TOTAL PATENT TERM ADJUSTMENT

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. The period of adjustment pursuant to 37 C.F.R. §1.703(a)(1) and the period of adjustment pursuant to 37 C.F.R. § 1.703(b) overlapped from December 12, 2006 until April 15, 2008, which is **490 days**. The remaining time period from April 15, 2008 until November 21, 2008, which is **220 days**, does not "overlap" under 35 U.S.C. §154(b)(2)(A). See *Wyeth et al. v. Dudas* 88 USPQ 2d 1538, 580 F.Supp.2d 138 (D.D.C. 2008). Thus, according to our calculations based on those upheld by the court in *Wyeth*, we

believe that the patent term adjustment should be at least **1168 days + 220 days = 1388 days**.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark Office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned attorney for the Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ryan Gleitz', is written over a horizontal line.

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October 29, 2009

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